

SENATE

S. NO. 424

Introduced by Senator Antonio "Sonny" F. Trillanes IV

EXPLANATORY NOTE

Underwater cultural heritage is an integral part of the Filipinos' national pride. It is particularly an important element in our history and our relationship with other countries as well.

Experts, however, calculate that indiscriminate diggings and underwater explorations have exposed our cultural and historical sites to desecration and our priceless cultural artifacts to destruction.¹

This bill, therefore, seeks to protect and conserve future underwater archeological discoveries by providing a statutory mechanism for a permit system on underwater exploration and excavation and assigning the National Museum as the lead agency in implementing the provisions of this Act.

Some salient features of this bill are as follows:

1. The Director of the National Museum shall be given powers to implement guidelines and issue permits to explore or excavate any underwater site for protected underwater cultural properties in Philippine Waters.
2. It outlaws diving, marking use of explosives other than shaped charges, and use of a pressure air hose, water hose or vacuum hose within a protected zone or a non protected zone to recover objects of underwater cultural heritage.
3. Any person who discovers, by chance, any object of underwater cultural heritage is obliged to report his/her find to the National Museum or any of its branches within seven days from knowledge of its potential scientific, cultural, archaeological, paleontological or historical value.

In view of the foregoing, approval of this bill is strongly recommended.


ANTONIO "SONNY" F. TRILLANES IV
Senator

¹ UNESCO. Nov. 2001. *Protection of Underwater Cultural Heritage*. Retrieved on 12 June 2008 from <http://unesdoc.unesco.org/images/0013/001330/133089e.pdf>.

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S. NO. 424

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AN ACT
PROVIDING FOR THE PROTECTION AND CONSERVATION OF ALL OBJECTS
UNDERWATER CULTURAL HERITAGE IN PHILIPPINE WATERS

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 **SECTION 1. Short Title.** - This Act may be cited as the "*Protection of Underwater*
2 *Cultural Heritage Act of 2010.*"

3
4 **SEC. 2. Declaration of Policy.** - It is hereby declared to be the policy of the State to
5 protect and preserve underwater archaeology, exploration and excavation, the description of
6 items to be protected, the prohibition of certain activities in the vicinity of a protected item/ site,
7 the establishment of a reward system for verified reports and the imposition of sanction/
8 penalties for violations.

9
10 **SEC. 3. Definition of Terms.** - In this Act, unless the contrary intention appears,

11 a) Philippine water means all around, between and connecting the islands of the
12 Philippine archipelago and the territorial sea extend up to twenty-four (24) nautical miles
13 measured from the straight baselines in accordance to Republic Act No. 3046 as amended by
14 Republic Act No. 5446 (1961);

15 b) Sea includes any waters within the ebb and flow of the tide;

16 c) Ship includes any vessel used in navigation by water;

17 d) Underwater archaeology includes not only maritime archaeology but also riverine and
18 submerged site archaeology;

19 e) Cultural Treasure includes any money, coin, gold, silver bullion, jewelry, precious
20 stones and metals and other raw precious objects which are unworked found or hidden in, or
21 in anything affixed to, the soil or the bed of a river or of the sea or other bodies of water but
22 shall not include any rare and unique item or any object which is at least one hundred (100)
23 years old or more declared a national cultural treasure or important cultural property;

24

1 f) Objects of underwater cultural heritage, both movable and immovable includes all
2 shipwrecks, sunken vessels at least 100 years old and all things therein, hulls and underwater
3 archaeological artifacts; places of ancient settlement or where there are vestiges of an ancient
4 civilization; dockyards, piers, aqueducts, tanks, wells; monuments, fragment shards or
5 original documents found under water dating from prehistoric times and any other object of
6 scientific, cultural, religious, archaeological, anthropological or paleontological interest to
7 the Philippines;

8 g) Collector is any person or institution who acquires cultural treasure for purposes other
9 than sale;

10 h) Dealers are persons or enterprises who acquire cultural treasure for the purpose of
11 engaging in the acquisition and resale of the same; and

12 i) Exporters are dealers who engage in the business of exporting cultural treasure.

13
14 **SEC. 4. *National Museum as Lead Agency.*** - The National Museum, hereinafter referred
15 to as the Museum shall be the lead agency of the government which shall implement the
16 provisions of this Act.

17
18 **SEC. 5. *Declaration and Register of Protected Sites.*** - The Archaeology Division of the
19 National Museum shall undertake an intensive archival and historical research study to pinpoint
20 sites of important shipwrecks and other significant underwater archaeological sites within five
21 (5) years from the approval of this Act. Thereafter, the National Museum shall keep an up-to-
22 date register of protected underwater archaeological sites and shipwrecks.

23 The Director of the National Museum shall by notice published in the Official Gazette or
24 any newspaper of general circulation, declare an area (not exceeding 100 hectares) consisting of
25 sea or partly of sea and partly of land within which archaeological sites, shipwrecks or any object
26 of underwater cultural heritage are situated to be a protected zone and/or restricted area.

27
28 **SEC. 6. *Ownership of Cultural Objects.*** - Upon approval of this Act, ownership of all
29 objects of underwater cultural heritage found in territorial waters, regardless of origin, is vested
30 directly in the State.

31 It shall be unlawful to destroy, demolish, mutilate or damage any object of underwater
32 cultural heritage. No person shall remove from or alter the site of any object of underwater
33 cultural heritage within a protected zone.

1 **SEC. 7. *Dealing or Possessing a Punishable Act.*** - The act of dealing in or possessing
2 any object of underwater cultural heritage, any part thereof, or associated object in the vicinity
3 thereof unless authorized to be so by the National Museum is punishable by the penal provisions
4 of this Act.

5
6 **SEC. 8. *Other Prohibited Acts.*** - Diving, marking, use of explosives other than shaped
7 charges, use of a pressure air hose, water hose or vacuum hose within a protected zone or a non-
8 protected zone to recover objects of underwater cultural heritage is strictly prohibited.

9
10 **SEC. 9. *Reporting.*** - Any person who discovers, by chance, any object of underwater
11 cultural heritage is obliged to report his/her find to the National Museum or any of its branches
12 within seven (7) days from knowledge of its potential scientific, cultural, archaeological,
13 paleontological or historical value. Any person who becomes aware of the find is also required to
14 notify the nearest National Museum branch or representative within seven (7) days after
15 constructive or direct knowledge. A government or public officer has the special duty to pass any
16 information regarding discovery and chance finds of objects of underwater cultural heritage to
17 the nearest National Museum branch or representatives. Failure to report/notify within the
18 designated period shall be penalized by the appropriate provisions of this Act.

19
20 **SEC. 10. *Special Decorative.*** - A special decoration for persons who have contributed to
21 the preservation of objects of underwater cultural heritage or who have rendered important
22 services in the protection of the same shall be given by the Office of the President, upon
23 recommendation by the Director of the National Museum and the Undersecretary for Culture.

24
25 **SEC. 11. *Finders' Reward.*** - Finders who have dutifully notified the National Museum
26 of their discovery and chance finds shall be given a finder's reward equivalent to at least fifteen
27 percent (15%) of the value of the property and be given recognition by name in a museum
28 display or publication.

29 A finder who has the right qualification to work a site shall be given a right or priority
30 among applicants for permits to explore or excavate.

31
32 **SEC. 12. *Permits to Explore/Excavate.*** - It shall be unlawful to dive, explore, survey,
33 excavate in Philippine waters for the purpose of obtaining materials of cultural or historical value
34 without the prior written authority from the Director of the National Museum.

1 The Director of the National Museum shall promulgate rules and guidelines for the grant
2 of permits/licenses to explore or excavate any underwater site for protected underwater cultural
3 properties in Philippine waters subject to the provisions of this Act. Such rules and regulations
4 shall be published in a newspaper of general circulation and shall be approved by the Secretary
5 of Department of Education.

6
7 **SEC. 13. *Who May Be Granted Permits.*** - Only duly accredited scientific and education
8 institutions, duly registered non-stock and non-profit corporate entities or organizations in the
9 field of underwater archaeology, government agencies or instrumentalities with proven ability to
10 conduct underwater archaeological work, foreign institutions in the field of underwater
11 archaeology registered with the SEC and allowed to do business in the Philippines and
12 individuals and juridical person under sponsorship by a scientific or educational institution may
13 be granted by a scientific or educational institution may be granted permits to explore or
14 excavate.

15
16 **SEC. 14. *Formal Application.*** - A formal letter of application for a permit to explore or
17 excavate shall be addressed to the Director of the National Museum. It shall contain the name of
18 the proponents, the cooperating agencies, summary of the project, its objectives, significance and
19 the procedure to be followed, a timetable, a list of foreign personnel with proper Philippine visa
20 and historical and archival documentation. It must be accompanied by financial statements,
21 evidences of competence and experience in the field of underwater archaeological and a listing
22 of capital investments in terms of equipment and facilities. The applicant shall file a cash
23 performance bond in an amount not less than Two hundred thousand pesos (P200,000.00) which
24 is refundable subject to limitations upon completion or cessation of the project.

25
26 **SEC. 15. *Procedures.*** - The National Museum's underwater archaeological procedures
27 shall be followed throughout the extent and effectivity of the project.

28 No exploration or excavation may commence until the written permit is issued and the
29 applicant has signed his conformity with the corresponding rules and regulations.

30 Activities during the exploration of underwater archaeological sites are limited to the
31 assessment of the potential(s) of the sites for future, archaeological excavation. During the
32 exploration only samples of small finds and diagnostic materials enough to help in the
33 identification and dating of the site may be taken. These materials shall belong to the National
34 Museum.

1 Underwater archaeological excavations are to be undertaken following internationally
2 accepted methods and techniques. There shall be a general mapping of the site prior to the
3 excavation where and when feasible. The permittee shall keep a daily inventory and listing of
4 archaeological materials recovered and a daily log book to record daily activities including the
5 detailed description the permittee shall undertake a three-dimensional recording of
6 archaeological materials to show spatial relationship with other materials and environmental
7 features. The permittee must be committed to implement adequate recovery procedures to
8 minimize archaeologically induced damage specifically to fragile and small materials and
9 arrange for the conservation of all materials both at the site and the laboratory. A preliminary
10 report, status and final report of the activities and results of the excavations shall be submitted to
11 the National Museum.

12
13 **SEC. 16. *Presence of National Museum Representative.*** - Underwater archaeological
14 work, both exploratory and actual excavations, shall be carried out only in the presence of
15 National Museum representative(s).

16 Actual commencement of the work shall be subject to the availability of a National
17 Museum representative.

18 The permittee shall underwrite the cost of transportation, life and medical insurance, per
19 diems and allowances of the Museum representative to the site to expedite continuous operations
20 of the project.

21 The permittee shall likewise provide the Museum representative with full scuba and
22 excavation equipment to be used for the underwater archaeological operation.

23
24 **SEC. 17. *Right of Revocation.*** - The National Museum has the full right to revoke the
25 permit issued to the applicant for cause such as but not limited to ,a violation or inability of the
26 permittee to comply with the terms and conditions of the permit or any part thereof, deliberate
27 act(s) of concealing any item or object recovered from the site or any part thereof with the
28 intention of defrauding the National Museum, allowing the possession, traffic or use of
29 prohibited drugs during the diving operations illegal possession of firearms and ammunitions.

30
31 **SEC. 18. *Other Explosives Prohibited.*** - The use of other explosives other than shaped
32 charges that will not harm the environment is strictly prohibited. The use of shaped charges must
33 be with prior clearance from the National Museum representative and the Armed Forces of the
34 Philippines.

1 **SEC. 19. *Subcontracting Prohibited.*** - Subcontracting of underwater archaeological
2 work or third party arrangements is not permitted. Permits are non-transferable and non-
3 assignable.

4
5 **SEC. 20. *Period of Exploration.*** - Exploration permits are limited to a period of six (6)
6 months per permit, but renewable for another six (6) months for just reasons. An applicant can
7 only have two exploration permits at any one time. The cash performance bond for an exploration
8 permit for one site is Two Hundred Thousand Pesos (P200,000.00).

9
10 **SEC. 21. *Period of Excavation.*** - Applications for permits to excavate must specify the
11 map coordinates of the specific site to the nearest degree. A site must be described in full detail
12 to establish identify.

13 Excavation permits are limited to a period of one (1) year and renewable for another year.
14 In areas unaffected by seasonable climatological variations only one excavation permit may be
15 granted at any one time. In affected areas, two excavation permits may be granted, the applicant
16 working alternately between the sites as the weather condition permits.

17 The cash performance bond for an exploration permit is extended into the excavation
18 phase if an excavation permit is granted.

19
20 **SEC. 22. *Study of Objects/Report.*** - A completed documentation and scientific study of
21 objects recovered from the site collectively must be undertaken before the same are dispersed. A
22 report on the project shall be submitted to the National Museum before any division of the
23 recovered materials, objects or item is allowed.

24
25 **SEC. 23. *Disposition/ Division of Recovered Objects.*** - All rare and unique items (RUIs)
26 automatically belong to the National Museum. Any recovered object which is declared to be a
27 national cultural treasure or an important cultural property also belongs to the National Museum.

28 If a cultural treasure, as defined in this Act, is discovered or recovered during the
29 exploration or excavation, the permittee must notify the National Museum Director within 24
30 hours. The permittee may underwrite the cost of the guards and other security measures. The
31 Director of the National Museum shall request the Philippine Navy, through the Office of the
32 President, for assistance in securing the site and the project's personnel.

33 All cultural treasures except the RUI's shall be divided on a 50-50 basis. In case there are
34 several RUI's as determined by both parties, then, all cultural treasures shall be divided on a 50-
35 50 basis, in favor of the permittee.

1 **SEC. 24. Cost of Convention.** - The material cost of the total conservation of the
2 recovered cultural properties shall be borne by the permittee regardless of the termination date of
3 the permit. The technical expertise in the conservation of the materials may be provided by the
4 National Museum.

5
6 **SEC. 25. Construction or Mining Halted.** - Underwater construction work or mining
7 shall be halted wherever a find is made so that rescue technology can take place. Mining or
8 construction in or near a declared protected zone/restricted area shall not commence without
9 prior consultation with the Director of the National Museum.

10
11 **SEC. 26. Cooperation with Diving Clubs.** - The Philippine Commission on Sports
12 Scuba-Diving (PCSSD) and local diving clubs shall submit a list of their divers-members to the
13 National Museum. The Philippine Tourism Authority, together with representatives of the
14 National Museum, shall conduct education campaigns and information derives about the
15 Philippine underwater cultural heritage to tourist-divers and local diver's clubs.

16
17 **SEC. 27. Penal Provisions.** - Any violation of the provision of this Act shall, upon
18 conviction, subject the offender to a fine of not less than One hundred thousand pesos
19 (P100,000.00) or imprisonment for a term of not less than ten (10) years or both upon the
20 discretion of the Court: *Provided*, That any watercraft, equipment, tools, paraphernalia, other
21 instruments used for excavation and objects excavated in violation of this Act shall be summarily
22 confiscated and forfeited to the National Museum: *Provided, further*, That if the violation is
23 committed by a juridical person, the manager, representative, director agent or employee of said
24 juridical person responsible for the act shall also be liable to the penalties provided herein
25 *Provided, finally*, That if the offender is an alien he shall be under the custody of the
26 Commission on Immigration and Deportation for the appropriate proceedings.

27
28 **SEC. 28. Appropriation.** - The sum of Seven million pesos (P7,000,000.00) is hereby
29 appropriated annually from the General Fund, not otherwise appropriated by law, to carry out the
30 provision of this Act.

31
32 **SEC. 29. Repealing Clause.** - Any provision of existing laws, rules, decrees and
33 executive orders inconsistent with the provisions of this Act are hereby repealed and modified
34 accordingly.

1 **SEC. 30. *Separability Clause.*** - Any portion or provision of this Act that may be
2 declared unconstitutional shall not have the effect of nullifying other portions or provisions
3 hereof as long as such remaining provisions can still subsist and be given effect.

4
5 **SEC. 31. *Effectivity Clause.*** - This Act shall take effect upon its approval and fifteen
6 (15) days after its publication in the Official Gazette or a newspaper of general circulation.

Approved,